



CITY OF DAUPHIN

BY-LAW NUMBER 01/2005

**BEING A BY-LAW OF THE CITY OF DAUPHIN TO REGULATE THE OPERATION OF
OFF-ROAD VEHICLES WITHIN THE BOUNDARIES OF THE CITY OF DAUPHIN**

WHEREAS "The Off-Road Vehicles Act", C.C.S.M. c.031 provides in part as follows:

45(1) Subject to subsections (2), (3) and (4), the traffic authority of a highway may make by-laws and the minister may make rules supplementary to, or in addition to, but not contrary to any provision of this Act or the regulations made under this Act

- (a) permitting or prohibiting the operation of designated off-road vehicles across a roadway and shoulder at any place or at a designated place along the highway or on any portion thereof;
- (a.1) permitting the operation of designated off-road vehicles upon a roadway or the shoulder of a roadway; and
- (b) prohibiting the operation of designated off-road vehicles upon a designated right-of-way or a specified portion thereof.

46(1) Rules supplementary to, or in addition to, but not contrary to any other provisions of this Act or the regulations made under this Act:

- (a) prescribing the period of day, or of the year, during which designated off-road vehicles shall not be operated;
- (a.1) prescribing the maximum speed above which off-road vehicles shall not be operated;
- (b) prescribing areas in which the operation of designated off-road vehicles shall be permitted or prohibited; and
- (c) fixing penalties for violation of by-laws passed under this section and may be made in respect of a municipality, by the council thereof.

WHEREAS, the City of Dauphin deems it desirable to establish a by-law respecting the operation of off-road vehicles within the City limits;

AND WHEREAS, the City of Dauphin is desirous of providing snowmobile access routes into and out of the City thereby providing safer and more controlled access to certain areas of the City;

NOW THEREFORE, the Council of the City of Dauphin hereby enacts as follows:

1. That By-law Number 4149 of the City of Dauphin is hereby repealed.

2. **DEFINITIONS:**

Unless the context specifically indicates otherwise, the meaning of the terms used in this By-law shall be as follows:

- (a) **Highway** means any place or way, including any structure forming part thereof, which or any part of which the public is ordinarily entitled or permitted to use for the passage of vehicles, with or without fee or charge therefor, and includes all the space between the boundary lines thereof; but does not include any area designed or intended, and primarily used for the parking of vehicles and the necessary passage ways thereon;
 - (b) **Interchange** means a general area where two intersecting roadways cross at different levels and includes the turning lanes between these two intersecting roadways;
 - (c) **Intersection** means the area embraced within the straight projection of the lateral boundary lines of two or more highways that join one another at an angle, whether or not one of the highways crosses another;
 - (d) **Off-Road Vehicle** means any wheeled or tracked motorized vehicle designed or adapted for cross-country travel on land, water, ice, snow, marsh or swamp land or other natural terrain, and, without limiting the generality of the foregoing includes:
 - (i) a four-wheel drive motor vehicle, a motorcycle or a snow vehicle not registered under *The Highway Traffic Act*;
 - (ii) an all-terrain vehicle;
 - (iii) a mini-bike, dirt-bike and trail-bike;
 - (iv) a miniature vehicle such as a dune or sport buggy;
 - (v) an off-road maintenance machine;
 - (vi) an amphibious vehicle; and
 - (vii) a snowmobile;
- but does not include
- (viii) an implement of husbandry;

- (ix) a farm tractor,.
 - (x) a special mobile machine;
 - (xi) a garden or lawn tractor; and
 - (xii) a golf cart.
- (e) **Operate** means to drive or to be in actual physical control of an off-road vehicle;
- (f) **Operator** means a person operating or driving an off-road vehicle or a person in actual physical control of an off-road vehicle;
- (g) **Owner** includes a person who has exclusive use of an off-road vehicle under a lease or other agreement for a period of more than 30 days;
- (h) **Peace Officer** means:
- (i) any member of the Royal Canadian Mounted Police Force and any other police officer, special constable, or other person employed for the preservation and maintenance of the public peace; and
 - (ii) any person lawfully authorized to direct or regulate traffic, or to enforce this Act or traffic by-laws or regulations.
- (i) **Right of way** means an area of land acquired for a public thoroughfare including any other facility incidental thereto;
- (j) **Roadway** means the portion of a highway that is improved, designed or ordinarily used for vehicular traffic, and includes that portion thereof that , but for the presence of a safety zone, would be ordinarily so used, but does not include the shoulder; and where a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not all the roadways collectively;
- (k) **Shoulder** means the portion of a highway contiguous with the traveled way for accommodation of stopped vehicles for emergency use and for lateral support of base and surface courses;
- (l) **Snowmobile** shall mean a vehicle that has a gross vehicle weight not exceeding 454 kilograms and;
- (i) Is not equipped with wheels, but in place thereof is equipped with tractor treads alone or with tractor treads and skis, or with skis and a propeller, or is a toboggan equipped with tractor treads or a propeller;
 - (ii) Is designed primarily for operating over snow or ice, and is used primarily for that purpose and;

- (iii) Is designed to be self-propelled.

3. ALL OFF ROAD VEHICLES

- (a) That **no person shall operate an off road vehicle within the limits of the City of Dauphin except as permitted in this by-law or under the Act.**
- (b) That **no person shall operate an off road vehicle:**
 - (i) In a careless manner or without due care and caution; or
 - (ii) Without reasonable consideration for other persons and property or in a manner likely to cause damage or injury to other persons and property.
- (c) That **no person shall operate an off road vehicle:**
 - (i) On privately owned land without the express or implied consent of the owner or lawful occupier of the property or;
 - (ii) On Crown land allocated by lease or permit, without the express or implied consent of the lawful occupier of the property, unless the operator is otherwise lawfully authorized to enter such land or;
 - (iii) On any City owned property or;
 - (iv) On or across a sidewalk or;
 - (v) In a parking lot unless it is used to gain access
 - (a) to or from an off-road vehicle use area; or
 - (b) to the vehicle used to transport the off-road vehicle to an off-road vehicle use area.
 - (vi) On the Vermilion River within City limits.
 - (vii) Within 30 meters of a dwelling between the hours of 12:00 Midnight and 7:00 a.m. in the morning, unless the dwelling is located on the operator's own property or the property is under the operator's control or as an invited guest;
 - (viii) Within 30 meters of a playground, or areas set aside for other recreational use, unless the area is enclosed or fenced or unless the off road vehicle is required for the maintenance or operation thereof;
 - (ix) Except as may be authorized by Subsection (4) of the Bylaw or any other provision of the Off-Road Vehicles Act or regulation thereunder, no person shall operate an off road vehicle upon or across a roadway or the shoulder thereof; or on or across the median of a divided highway with the City of Dauphin, or on the right-of-way of an interchange.

- (x) Notwithstanding Clause 3c) vii) above, a person may operate a snowmobile across those roadways or shoulders thereof at the locations specified and upon those trails as specified in Schedule "A" attached hereto provided that the operator:

Before entering onto a roadway or shoulder,

- (a) brings the off-road vehicle to a stop; and
- (b) yields the right-of-way to pedestrians crossing the roadway or shoulder and to traffic that is approaching and is so close that it constitutes a hazard.

Where intending to cross a roadway and shoulder, enters and crosses at an angle of approximately ninety degrees to the direction of the roadway and shoulder.

- (d) That notwithstanding any of the regulations or prohibitions or penalties contained in this by-law, it shall be lawful for authorized peace officers, to operate off-road vehicles anywhere within the limits of the City of Dauphin while in the performance of their lawful duty.
- (e) Section 3d does not apply to a person operating an off-road vehicle that is owned or operated on behalf of the Government of Canada, the Government of Manitoba, a Crown Corporation, a public utility, the City of Dauphin, or any other local authority or agency where such person is actually engaged in work requiring the use of the off-road vehicle.

4. SNOWMOBILES

- (a) That the City shall designate certain roadways as snowmobile access routes and that these routes are hereafter designated as colored in Red on the attached map marked as Schedule "A" to this by-law.
- (b) That these routes be used to provide access to and from the area outside of the City boundaries and are not designed as areas for other uses of the snowmobiles.
- (c) That these routes be used by operators at a maximum speed of 20 kilometers per hour.
- (d) That these routes be for the exclusive use of snowmobiles and that all other off-road vehicles be prohibited from this use thereof.
- (e) That an operator who is qualified under the Act to operate a snowmobile may during the period from October 1st of one year to April 30th of the following year operate a snowmobile within the City of Dauphin only on the access routes designated on Schedule "A" attached to and forming part of this bylaw while the access routes are snow covered.

- (f) That a person who is qualified under the Act to operate a snowmobile may, while the designated routes are snow covered, operate a snowmobile with the City of Dauphin on the ditches adjacent to the prescribed routes which are indicated and set out on the map attached to this by-law as Schedule "A", provided the snowmobiles are operated to the right of the roadway and shoulder and in the same direction of vehicular traffic on that side of the roadway.
- (g) That the local traffic authority shall erect the necessary signs to mark the snowmobile routes and designated roadway or shoulder crossings in compliance with the Off-Road Vehicles Act and regulations.
- (h) That it shall be lawful to operate a snowmobile under the provision of this bylaw between the hours of 7:00 a.m. and 2:00 a.m.

5. PENALTIES:

- (a) That a peace officer may detain for five clear days an off-road vehicle with which an offence has been or is alleged to have been committed by means of, or in relation to, an off-road vehicle, but the off-road vehicle may be released sooner if security for its production is given to the satisfaction of a justice.
- (b) That any person who violates, contravenes or disobeys or refuses, omits, neglects or fails to observe, obey or comply with this bylaw shall be guilty of an offence and liable on summary conviction to a fine not exceeding One Thousand (\$1,000.00) dollars and costs, and in default of payment of said fine and costs within such time as is allowed by a magistrate, justice of the peace or judge, to imprisonment for a term not exceeding six (6) months, or both such fine, costs and imprisonment.

- 6. THAT this By-law shall be effective and from final passing thereof and approval by the Minister or his authorized designate.**

DONE AND PASSED by Council of the City of Dauphin in Regular Session assembled, this 7th day of March, A.D., 2005.

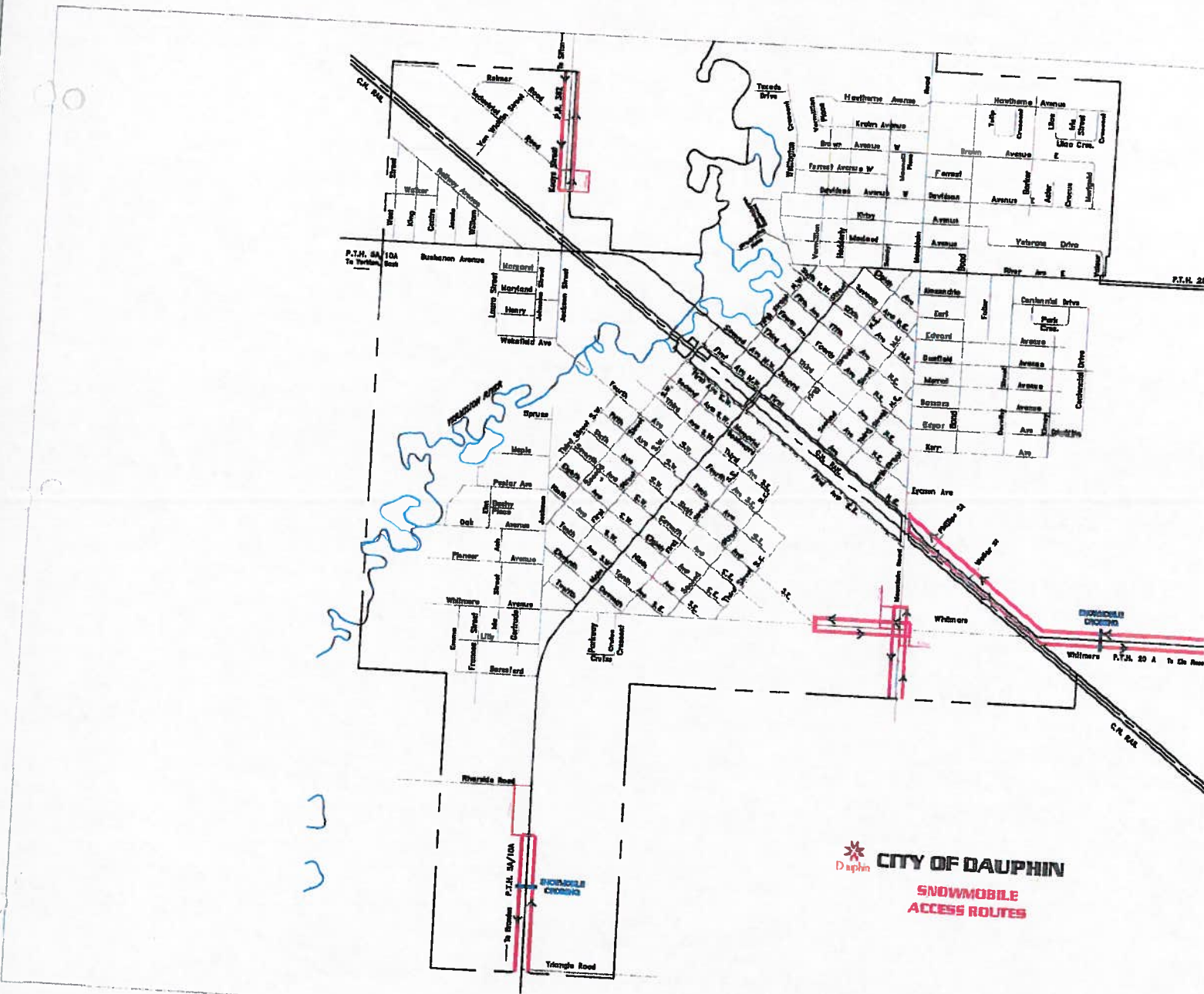


Alex Paul, Mayor



Brad D. Collett, Chief Administrative Officer

**READ A FIRST TIME this 24th day of January A.D., 2005.
READ A SECOND TIME this 7th day of March A.D., 2005.
READ A THIRD TIME this 7th day of March A.D., 2005.**




CITY OF DAUPHIN
SNOWMOBILE
ACCESS ROUTES